



Legal Department



(419) 247-8707

November 21, 1994

**Ms. Marsha Adams
Responsible Party Unit
U.S. Environmental Protection Agency, HSMP-5J
77 West Jackson Boulevard
Chicago, IL 60604**

**Re: Request for Information
Stickney/Tyler Site
City of Toledo, Lucas County, Ohio**

Dear Ms. Adams:

Attached please find Owens-Illinois, Inc.'s response to U.S. EPA's Request for Information dated October 17, 1994 with respect to the above site. If you have any questions, please contact the undersigned.

Very truly yours,

**Nirav D. Parikh
Legal Counsel**

js

Enc.

**11-22-94 xc: R. J. Towles
M. J. O'Callahan
S. C. Wiciak**

(DOC\RP\d\1121)

**Marsha Adams
Responsible Party Unit
U.S. Environmental Protection Agency, HSMP-5J
77 West Jackson Boulevard
Chicago, IL 60604**

**Re: Request for Information; Stickney/Tyler Site
City of Toledo, Lucas County, Ohio**

GENERAL OBJECTIONS

- 1. OI objects to the definition of "relevant time period" as being over broad and burdensome on the basis that the actual dates of operation of the Stickney landfill was from 1958 to 1966 and the actual dates of operation of the Tyler landfill was from 1955 to 1968.**
- 2. OI objects to the Information Request insofar as each such request is vague, ambiguous and susceptible to multiple interpretations.**
- 3. OI objects to the information requests insofar as each request seeks information or documents not within the reasonable possession, custody or control of OI.**
- 4. OI objects to the Information Requests on the grounds of relevance insofar as each such request seeks information or documents not related to the generation, treatment, storage, or disposal of hazardous substances at the subject Sites.**
- 5. OI objects to each of the Information Requests insofar as each such request seeks information which is beyond U.S. EPA's scope of authority as granted under 42 U.S.C. §9604 and not relevant. The subject matter of inquiry under CERCLA is limited to information relating to: (1)"The identification, nature and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility; (2) "The nature or extent of a release or threatened release or a hazardous substance or pollutant or contaminant at or from a vessel or facility; and (3)"Information relating to the ability of a person to pay for or to perform a cleanup." 42 U.S.C. §9604(e)(2). The subject Information Requests are unduly broad, burdensome and beyond the scope of the above authority.**

6. OI objects to the Information Requests insofar as any such request seeks the disclosure of confidential information, or information which is privileged subject to the attorney-client privilege, attorney work-product privilege, or other privilege.
7. OI objects to instruction No. 4 on the basis that EPA's attempt to create a continuing duty to supplement responses exceeds the statutory authority under CERCLA. Without waiving its objection, OI will supplement responses in cases where it becomes aware that information provided was incorrect, though believed to be correct when made, or is no longer true.
8. OI objects to Definition No. 13 on the basis that the definition unduly broadens the inquiry and is beyond the scope of authority granted to U.S. EPA under CERCLA. OI further objects to definition No 13 insofar as the definition imposes obligations to provide information or documents beyond OI's reasonable possession, custody or control.
9. OI incorporates by reference, and specifically adopts each and every objection in its September 29, 1993 response (attached as Exhibit A), as objections to this information request.

Without waiving any of the foregoing objections, and the objections in its September 29, 1993 response, OI responds as follows:

1. Identify all persons consulted in the preparation of the answers to these Information Requests:

RESPONSE: Without waiving any of its objections, OI identifies the following individuals: Andy Anderson, W. Blessing, Frank Butler, Thad Franklin, Williams Gilders, Charles Haushalter, Inga Hoeflinger, George Managhan, Robert Towles, Larry Townsend and Suzanne Wiciak.

2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests and provide copies of all such documents:

RESPONSE: Without waiving any of its objections, OI has no information, to date, in its possession, custody or control, linking it to the generation, transportation, treatment, disposal or other handling of materials at either the Tyler Street Dump or the Stickney Avenue Landfill. Respondent has in its possession documents

it obtained from Ohio Environmental Protection Agency ("OEPA") which were consulted, examined or referred to, in addition to the documents attached, and documents produced in its earlier September 29, 1993 response, in preparation of responses herein. Information obtained from OEPA is not being produced since it contains information available to the general public and the burden of gathering, deriving or obtaining the information is the same for U.S. EPA as it is for OI.

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons:

RESPONSE: Without waiving any of its objections, OI is not aware of any other persons within its control who may have additional knowledge, information, or documents regarding the generation, transportation, treatment, disposal or other handling of hazardous substances by OI with respect to the Subject Sites.

4. Identify all persons having knowledge or information about the generation, transportation, treatment, disposal or other handling of hazardous substances by Respondent, or by Respondent's predecessors or successor in interest, or their contractors:

RESPONSE: Without waiving any of its objections, OI specifically objects to this Information Request insofar as such request seeks information not within the reasonable possession, custody or control of OI. Notwithstanding the above objections, OI is not aware of any other persons within its control who may have additional knowledge, information, or documents regarding the generation, transportation, treatment, disposal or other handling of hazardous substances by OI or its predecessors or successors in interest or their contractors with respect to the subject Sites.

5. Describe the corporate history and the current corporate structure of Respondent, Respondent's predecessors in interest, Respondent's successor in interest, and any subsidiaries (not limited to the Greater Toledo

Metropolitan Area.) Include in the description, but do not necessarily limit it to, the following:

- a) The names, titles, and duties of the directors, officers, and major shareholders of Respondent, Respondent's predecessors in interest, Respondent's successors in interest and any subsidiaries at the time of; (i) their incorporation, (ii) sale of a major interest in stock or merger with a successor in interest, (iii) sale of assets, as defined above.
- b) If the shareholders of the selling corporations, were different from the shareholders of the purchasing corporation at the time of the sale, state whether there was any relationship between the shareholders other than that of a seller/buyer;
- c) With regard to any mergers, sales of a majority interest in stock, or a sale of assets, provide a copy of the final sales contract or purchase agreement executed between the parties, including all schedules, appendices, exhibits, valuations, or appraisals or assets or other attachments; also identify all purchasers or recipients of any mergers, sales of a major interest in stock, as defined above, or sales of assets as defined above.
- d) All customers and suppliers of any predecessor in interest in its last year of operation prior to any merger, sale of a majority interest in stock, or sale of assets, as defined above, and all customers and suppliers of any successors in interest in its first two years of operation.
- e) All supervisory personnel and employees of any predecessor in its last year of operation prior to any merger, sale of any major interest in stock or sale of assets, and all supervisory personnel and employees of any successor in interest in its first two years of operation subsequent to any merger, stock sale or sale of assets;
- f) All plant processes, manufacturing methods, and/or procedures that were in effect at a predecessor in interest prior to its merger, sale of any major interest in stock, or sale of assets. Further identify which processes were discontinued after the sale, and when such processes were discontinued.
- g) Any and all obligations and liabilities of any predecessor in interest that were assumed by Respondent, and any and all obligations and liabilities of Respondent that were assumed by any successor in interest.

- h) Any re-location of production, or manufacturing operations, by a successor in interest, from the place where such operations were conducted by a predecessor in interest, including the date and reasons for such re-location.
- i) Any appraisals or valuation of assets that were created or produced as part of negotiations for mergers, sales or purchases of major interests in stock, or sales of assets, whether or not such transactions were consummated.

RESPONSE: Without waiving any of its objections, OI specifically objects to this information request on the following grounds: (1) The information request seeks information not relevant to U.S. EPA's inquiry as to whether OI generated, transported, treated or disposed of hazardous substances at the subject Sites and therefore is unduly burdensome and broad; (2) The information request seeks information beyond the scope of U.S. EPA's legitimate authority under 42 U.S.C. §9604; and (3) The information request seeks information beyond OI's reasonable possession, custody or control. Notwithstanding, and without waiving any of its objections, OI provides the following information:

Between 1955-1968 (the "Period"), OI owned and operated the following facilities in the Toledo area:

(1) Libbey Glass Plant (1955-1968) - this facility manufactured glass tableware. During the Period the facility operated as part of the Libbey division of Owens-Illinois. In 1987, the Libbey division was incorporated as a wholly-owned subsidiary of Owens-Illinois. In 1993, Libbey Glass, Inc. was sold by Owens-Illinois and is now a separate publicly traded company.

(2) Technical Center (1955-1968) - this facility primarily conducted various research and development operations during the Period; the ink and die operation was also at this facility. The technical center ceased operation in or around 1986, and was sold in various parcels from 1986-1988 to the University of Toledo and the UT Corporation, now known as the UT Foundation.

(3) Duraglas Center (1955-1968) - this facility primarily housed the administrative department and conducted some research and development projects during the Period. The facility ceased operations in 1984.

(4) Levis Development Park, Perrysburg, Ohio (1967-1968) - Solder Glass began operations in 1967 at this facility; the composite can plant began operating in 1968; and the ink and die operation previously located at the Technical Center was moved to LDP in 1968. Solder Glass was part of the TV division during the relevant time period. In 1987, the TV division was incorporated as a wholly-owned subsidiary of Owens-Illinois. In 1988, Owens-Illinois sold 50% interest in the subsidiary to Nippon Glass at which time it became known as OI-NEG TV products, Inc. In 1993, Owens-Illinois sold its interest in OI-NEG TV Products, Inc. to Nippon, at which time it became known as Techneglas. The Ink and Die operation was part of the Forest Products division of OI during the above time frame. The facility ceased operations in or around 1987, and was sold in 1987 to Sun Chemical. The composite can plant was part of the Forest Products Division of OI during the relevant time period. The facility ceased operations in 1980 and in 1981 the plant was sold to General Can Company, Inc., a wholly-owned subsidiary of Ormand Industries, Inc.

(5). Toledo Air Associates, Toledo Airport. (operated at the Metcalf Airport until 1957, at which time it was moved to the Toledo Express Airport) - the operation essentially entailed a hanger for corporate aircraft maintenance. In the 1940s when the operation was located at Metcalf Airport, membership included Owens-Illinois, Owens-Corning Fiberglas, Champion, Autolite, and Libbey-Owens-Ford. The current membership consists of Owens-Illinois and Owens-Corning Fiberglas Corporation.

(6). OI Building (1955 - 1968) - During the above time period the above facility housed administrative and corporate employees. In 1981, the building was sold to Ohio Citizens Bank.

In addition to the above sites, OI owned various other properties around the Toledo area which were leased to various individuals and businesses.

OI has no information in its possession linking any of the above operations and respective facilities to the generation, transportation, treatment, disposal or other handling of materials at either the Tyler Street landfill or the Stickney Avenue landfill.

6. Provide a copy of the Articles of Incorporation and By-Laws for Respondent, Respondent's predecessors in interest, Respondent's successors in interest, including any subsidiaries of any of the aforementioned parties, as defined in Definition # 13. If the Articles of Incorporation do not otherwise indicate, identify the state in which each entity is incorporated:

RESPONSE: OI incorporates by reference, and adopts its responses and objections as set forth in its response to Information Request No. 5 as its objections and responses to this Information Request. In addition, see also documents attached and document produced pursuant to OI's September 29, 1993 response.

7. Provide a copy of any Articles of Dissolution for Respondent, its predecessors in interest, including any subsidiaries of any of the aforementioned parties, as defined in Definition # 13.

RESPONSE: OI incorporates by reference, and adopts its responses and objections as set forth in its response to Information Request No. 5 as its objections and responses to this Information Request. In addition, see also documents attached and document produced pursuant to OI's September 29, 1993 response.

8. For any entities identified in the Answer to Question #7, above, which have dissolved, provide a copy of that entity's annual report for the year in which it dissolved, and copies of any dissolved entities' successors-in-interest's annual reports for the first three years after its (their) incorporation.

RESPONSE: OI incorporates by reference, and adopts its responses and objections as set forth in its response to Information Request

No. 5 as its objections and responses to this Information Request. In addition, see also documents attached and document produced pursuant to OI's September 29, 1993 response.

9. State the dates during which Respondent, Respondent's predecessor in interest, Respondent's successor in interest, and any subsidiaries each operated and conducted business in the Greater Toledo Metropolitan Area.

RESPONSE: OI incorporates by reference, and adopts its responses and objections as set forth in its response to Information Request No. 5 as its objections and responses to this Information Request. In addition, see also documents attached and document produced pursuant to OI's September 29, 1993 response.

10. Describe the nature of the activities or business of Respondent, Respondent's predecessors in interest, Respondent's successors in interest, and any subsidiaries in the Greater Toledo Metropolitan Area, including any activities or business with respect to using, purchasing, receiving, generating, processing, storing, treating, disposing, transporting, or otherwise handling hazardous substances, pollutants, or contaminants. Include in your description, but do not limit it to, the following:

- a) The manufacturing processes of each company in the Greater Toledo Metropolitan Area;
- b) The names of the entities that supplied the above-named companies with hazardous substances, pollutants, or contaminants;
- c) How, when, and where such hazardous substances, pollutants or contaminants were used, purchased, received, generated, processed, stored, treated, transported, disposed or otherwise handled by the above-named companies; include in your description, but do not limit it to, any disposal of hazardous substances at the Stickney/Tyler site.

RESPONSE: OI incorporates by reference, and adopts its responses and objections as set forth in its response to Information Request No. 5 as its objections and responses to this Information Request. In addition, see also documents attached and

document produced pursuant to OI's September 29, 1993 response.

11. **Provide copies of the following documents submitted, created, or drafted by any entity identified in the Responses to these Information Requests, which is currently doing business in the Greater Toledo Metropolitan Area: all filed corporate tax returns for the last three years; all audited financial statements from the last three years; and all loan applications submitted within the last three years.**

RESPONSE: OI incorporates by reference, and adopts its responses and objections as set forth in its response to Information Request No. 5 as its objections and responses to this Information Request. In addition, see also documents attached and document produced pursuant to OI's September 29, 1993 response.

12. **If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide the following:**

- a) **The document retention policies of any entity which would once have had possession of the documents in question.**
- b) **A description, by each entity having possession of the documents of how the records were destroyed and the approximate date of destruction.**
- c) **A description of the type of information that would have been contained in the document;**
- d) **The name, job title, and most current address known by you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the destruction of these documents.**

RESPONSE: OI incorporates by reference, and adopts its responses and objections as set forth in its response to Information Request No. 5 as its objections and responses to this Information Request. In addition, see also documents attached and

**document produced pursuant to OI's September 29, 1993
response.**

**Enc. Owens-Illinois, Inc. September 29, 1993 104(e) Response
Owens-Illinois, Inc. Annual Reports from 1955-1968**

(RP\D\1116)